



Economic and Social Council

Distr.
GENERAL

E/1979/C.2/SR.22
10 May 1979

ORIGINAL: ENGLISH

First regular session, 1979

SECOND (SOCIAL) COMMITTEE

SUMMARY RECORD OF THE 22nd MEETING

Held at Headquarters, New York,
on Thursday, 3 May 1979, at 10.30 a.m.

Chairman: Mr. O'DONOVAN (Ireland)

CONTENTS

Human rights questions (continued)

This record is subject to correction.

Corrections should be submitted in one of the working languages. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent within one week of the date of this document to the Chief of the Official Records Editing Section, Department of Conference Services, room A-3550.

Any corrections to the records of the meetings of this session will be consolidated in a single corrigendum to be issued shortly after the end of the session.

The meeting was called to order at 10.55 a.m.

HUMAN RIGHTS QUESTIONS (continued) (E/1979/19, E/1979/36, and Add.1 and 2; E/1978/14 and Add.1-8; E/1979/C.2/L.7)

1. Mr. BADNANN (Federal Republic of Germany) said that the deliberations, and the decisions taken, at the thirty-fifth session of the Commission on Human Rights had given rise to optimism on the part of his delegation, even though the results had not always been satisfactory in every respect. Originally, the main function of the Commission had been standard-setting, but with the entry into force of the two Covenants on Human Rights and the definition of those rights, increasing importance had been devoted to the second aspect of its work, which was to ensure, through close co-operation among States, that those rights were effectively achieved and secured to the maximum degree.
2. His delegation welcomed the progress that had been made with efforts to draw up new international instruments on such matters as torture, religious intolerance and the rights of the child. The discussions on the study submitted by the Secretary-General on the right to development (E/CN.4/1334) had revealed that there had not so far been sufficient focus on the nature of that right, the starting-point for the exercise of which should be the individual, from whom it would extend to the society in which he or she lived. Co-operation between the various societies would then help to speed up the effective attainment of that right.
3. A growing interest in universal respect for human rights and fundamental freedoms, irrespective of ideological positions, had been apparent in the intense activity of virtually all members of the Commission in dealing with specific violations of human rights in various parts of the world. It was regrettable, however, that some groups were still inclined to concern themselves excessively with a few isolated cases and, at the same time, to deny the existence of other, sometimes even more serious, cases. He hoped that in time everyone would make an effort to avoid selectivity and to apply objective criteria, irrespective of the ideological, geographical or political position of any State which systematically and consistently failed to respect the human rights of its citizens.
4. Since the greater effectiveness of United Nations policy-making organs in dealing with human rights violations was dependent on the increasing efficiency of its administrative organs, his delegation had followed with particular interest the work done and the agreements reached on the future promotion of United Nations human rights activities. Although it was not opposed in principle to increasing the membership of the Commission on Human Rights to 43, it would have liked to see provision made for the Commission to meet more than once a year. At the same time, a clearer policy guideline to increase the staff and financial resources of the Division of Human Rights would appear to be indicated. The value of having an impartial High Commissioner for Human Rights, as had long been proposed by so many delegations, must be underlined once again. He hoped that the Council would take into account the views expressed by his and many other delegations on that subject. His delegation would always stand on the side of those who were making

(Mr. Baumann, Federal Republic
of Germany)

serious efforts to improve the human condition, and was convinced that only when men and women fully enjoyed all their rights could there be a real change for the better in the society in which they lived.

5. Mr. PIZA ESCALANTE (Observer for Costa Rica) said that his delegation had particular interest in work related to the protection and promotion of human rights, given its commitment to the fundamental rights and freedoms of the human person, which formed one of the pillars of the new international order. They were the condition sine qua non for the rights of peoples and States, and the only sure guarantee of international peace and security. Moreover, for more than 12 years his delegation had been sponsoring the proposal to establish a post of United Nations High Commissioner for Human Rights, which had been referred to the Commission on Human Rights pursuant to General Assembly resolution 33/105.

6. The way in which human rights were dealt with in the United Nations presented a paradoxical picture. The great institutional progress made in defining human rights was accompanied by a political reality which turned the struggle for human rights into a propaganda weapon. Many of the major violators of human rights rent their garments, presenting themselves as champions of those rights, yet condemning violations only when they were perpetrated by régimes which did not enjoy the political support of the arithmetical majority. They remained silent or even applauded when the violations were committed by circumstantial members of that majority. A recent example of that paradox had been the case of Democratic Kampuchea. As long as the political régime of that country had been in the sphere of influence of that majority it had invariably been supported by it, in the face of persistent denunciations of almost unimaginable mass violations of human rights by delegations which currently formed a minority in the United Nations. As soon as it ceased to be in that sphere of influence, the violations of human rights committed by the Pol Pot régime had, belatedly, assumed importance, and had been used to justify open aggression by Viet Nam against Democratic Kampuchea.

7. In the General Assembly, and specifically in the Commission on Human Rights and the Economic and Social Council, there had consequently been resistance to establishing suitable machinery of a general nature the better to guarantee protection and promotion of human rights, which could most accurately be defined as the rights of the human being vis-à-vis authority, whether national, foreign or international. Some fairly effective machinery had been set up, but only to deal with individual cases, and only on a one-way basis, as had happened in the case of Chile. The intention had been to prevent any such machinery being applied generally, except where it was acceptable to the very States accused of violating human rights. More serious still, there was the distortion of the very concept of human rights, with the obvious aim of serving the political interests of specific States. One way that had been done was by unjustifiably mixing and confusing two categories of human rights which, although of equal importance, and interdependent, were substantially different in meaning, scope and application, legally speaking. On the one hand, there were the "rights to freedom", the civil and political rights of a human being vis-à-vis authority, which could not be subject to action by the State. They were the only ones which could be violated, in the sense that they were the only ones which established a sphere of freedom which the State was

(Mr. Piza-Escalante, Observer,
Costa Rica)

obliged to respect. On the other hand, there were the "social rights" or "rights to well-being", the economic, social and cultural rights of the human being the attainment of which demanded action by the State. By their very nature, those rights could be neither respected nor violated. Totally different machinery was therefore required for each. The rights to freedom had to be protected, the rights to well-being promoted.

8. Consequently, jurisdiction in respect of human rights, whether national or international, could cover only the rights to freedom, as clearly reflected in the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights. Conversely, the obligations of States and of the international community consisted in adopting the necessary constitutional, legislative, administrative and economic measures to promote the gradual achievement of those rights, and in setting up machinery for co-operation and greater justice, thereby giving peoples the right to full development and a more equitable distribution of wealth.

9. Political manipulation was exemplified not only in the statements made but also in the content of important resolutions such as General Assembly resolution 32/130, which embodied the principle that all human rights and fundamental freedoms were interrelated and indivisible and that the full realization of civil and political rights without the enjoyment of economic, social and cultural rights was impossible. If that were really the case, then rights to freedom would be meaningless, particularly when indivisibility was accompanied by the obvious subordination of the rights to freedom to the rights to well-being, as in that resolution and in the day-to-day activities of the United Nations; in such circumstances, any allegation of a violation of the former could be answered by claiming that the economic and social conditions to ensure their respect had not yet been achieved.

10. Another distortion that had been built on the first consisted in the artificial creation of some sort of "collective" human rights, which included the rights of peoples and nations. On that basis, it was maintained that only those collective rights could be the subject of international action, while non-collective human rights, which were the true human rights, were left to the international jurisdiction of the very States responsible for violating them. The political ploy behind that was apparent and understandable; what was not apparent or understandable was that the United Nations which was supposedly independent and concerned with the genuine protection of men and women in the face of arbitrariness and injustice, should unprotestingly lend weight to such specious arguments.

11. However, his delegation's pessimism should not be interpreted as rejection of some of the positive achievements in important areas of human rights, or as reluctance to recognize that some of the resolutions and decisions adopted by the Commission had been conceived along the proper lines. The Commission's resolution 4 (XXV), which vigorously condemned the mass violation of the human rights and fundamental freedoms of the Nicaraguan people by the Government of that country, gave him, as a Central American, cause for satisfaction. The people of Costa Rica were resolutely on the side of their Nicaraguan brothers. His

(Mr. Piza-Escalante, Observer,
Costa Rica)

delegation's intention was respectfully to draw attention to how much remained to be done, especially with regard to the dangerous and regressive general trend which was diverting the Organization from the lofty goals of the Charter and the Universal Declaration of Human Rights and leading it toward the abyss in which the League of Nations had foundered.

12. One of the clearest examples of inconsistency was that constituted by the events surrounding the proposal to establish a post of United Nations High Commissioner for Human Rights. The original ambitious intention had been to establish a genuine international executive authority to protect and promote human rights, in the shape of some kind of a procurator, public prosecutor or ombudsman. The desire of the sponsors to see at least some modest progress had led them gradually to limit their horizon, so that the high commissioner would virtually be a mere mediator or advocate. What was currently being put forward was simply the need for a high-level executive officer - responsible, for example, to the Secretary-General - who, without interfering with the work of the Commission on Human Rights, would carry out, on a permanent basis and without political ties, the task of promoting human rights which had thus far been so sadly rejected. It was of little importance whether the title was High Commissioner, Under-Secretary-General or some similar designation. However, even such a modest proposal had failed to satisfy those opponents who continued to use human rights only as a propaganda weapon and had therefore systematically rejected any institutional or practical effort on behalf of genuine human rights. They were the opponents who brandished the principle of non-interference and the right to self-determination of peoples, not in order to guarantee sovereignty and real opportunities for self-determination but to safeguard the tranquillity and impunity of oppressive régimes, the self-proclaimed defenders of human rights who had no trouble in sponsoring far-fetched declarations and resolutions, and even subscribing to covenants full of good intentions, but who, when asked, invariably refused to render account of what they had done to implement them. After 10 years of delay, the draft resolution submitted to the Third Committee at the thirty-second session of the General Assembly (A/C.3/32/L.25/Rev.1) had been referred to the thirty-fourth session of the Commission on Human Rights and, pursuant to General Assembly resolution 32/130, recommendations were to be made, through the Economic and Social Council, to the General Assembly at its thirty-fourth session. Because his delegation had correctly feared that the Commission on Human Rights could not or would not make any progress in considering the proposal, it had submitted to the General Assembly at its thirty-third session, where it had again met with systematic opposition from the same delegations as usual. As a result, the General Assembly had adopted by consensus a purely procedural resolution (33/105). The discouraging result of the consideration of that subject by the Commission on Human Rights at its thirty-fifth session was reflected in operative paragraph 13 of draft resolution III. The effect of the deletions that had been made in the original draft resolution, as set out in paragraph 197 of the Commission's report (E/1979/36), had been to erect a tombstone over the whole proposal.

13. As the Commission had "taken note", so his delegation could do no more than "take note" of the fact that it was impossible to predict much success for any serious progress on the principle, widely recognized in the Charter, in the

/...

(Mr. Piza Escalante, Observer,
Costa Rica)

Universal Declaration of Human Rights and in the International Covenants on Human Rights, that the struggle for human rights, for the rights of the individual vis-à-vis authority, fell within the jurisdiction of the international community, which alone could safeguard them, because it alone was not both judge and party.

14. However, whether people wanted to listen or not, his delegation would continue to insist on that and other proposals aimed at guaranteeing respect for and attainment of all the fundamental rights and freedom of men and women everywhere. Temporary defeats only served to strengthen its resolve and its belief that it was fighting for reason and justice.

15. Mr. SHERIPIS (Cyprus) said that in perhaps no other United Nations activity could so great a discrepancy be observed between the resolutions adopted and the realities of international life as in the field of human rights. The international community often stood by watching helplessly as the human rights standards so laboriously worked out by United Nations bodies were violated. More important than idealistic declarations was the need to concentrate on ways and means of implementing them. His delegation, therefore, welcomed the trend which had been reflected in the instruments adopted in recent years towards providing machinery for their application. He expressed his delegation's satisfaction with and appreciation of the work done by the Committee on the Elimination of Racial Discrimination and the Human Rights Committee in monitoring the compliance of States parties with the provisions of the International Convention on the Elimination of All Forms of Racial Discrimination and the International Covenant on Civil and Political Rights respectively.

16. The work of the Commission on Human Rights was less satisfactory, partly because of its working methods, and partly because of the political will of its members. At times, it gave the impression of being a working group of the Third Committee; his delegation did not consider that to be its proper role. It was imperative and urgent that it should adopt a more pragmatic approach to its deliberations, and become more action-oriented. It should have the machinery it needed to be able to act on a continuous basis throughout the year, and he therefore supported the idea of convening meetings of the Commission's officers in intersessional periods when exceptional situations so warranted, as well as holding special sessions of the Commission for the completion of urgent and unfinished business, or when grave situations arose. If he appeared to be somewhat critical of the Commission, of which his country was a member, that was only because Cyprus, like all the people of the world, had high aspirations as to what it should accomplish. Peoples such as those in southern Africa, the Middle East and Cyprus had been looking to the Commission for action and concerted measures to help restore their rights, which had been flagrantly and continuously violated.

17. He knew from bitter experience the yearning of the displaced to return to their homes and the untold misery of the relatives of missing persons who waited in vain, year after year, to learn the fate of their loved ones.

18. The Commission on Human Rights had a responsibility to adopt a pragmatic approach to the drafting of binding international instruments on human rights; it should be the focal point of United Nations activity in that field, and assist

/...

(Mr. Sherifis, Cyprus)

the Economic and Social Council in the co-ordination of activities throughout the United Nations system, while at the same time serving as a watchdog to deal continuously and effectively with human rights violations throughout the world. Its membership should be increased to 43 members and more use should be made of sessional working groups.

19. If the Division of Human Rights was to maintain the high level of services expected of it, it must be provided with resources commensurate with the importance of its added responsibilities, such as servicing of the Human Rights Committee and assisting the Special Rapporteur on Chile. In that connexion, his delegation wished to place on record its confidence in the Special Rapporteur.

20. Thanks were due to the Secretary-General and to the United Nations Educational, Scientific and Cultural Organization (UNESCO) for the preparatory work that had been done on the right to development as a human right. In co-operation with UNESCO, the Secretary-General should proceed to prepare an analytical study of the regional and national dimensions of that right.

21. His delegation endorsed the report of the Commission on Human Rights (E/1979/36) in its entirety and was confident that the Secretariat had already transmitted to those concerned all the decisions, recommendations and/or wishes expressed by the Commission for implementation and compliance.

22. Mr. MARTYNIENKO (Ukrainian Soviet Socialist Republic) said that he felt he must express to the Secretariat his delegation's dissatisfaction at the delay in the issuing of the Commission's report (document E/1979/36) in all official languages, including Russian.

23. The report demonstrated that the Commission was continuing to contribute constructively to international co-operation in the promotion and encouragement of respect for human rights. In his delegation's opinion, the Commission's contribution would have been even greater if it had not included several secondary items in its lengthy agenda. The Commission should review its agenda so that it could better concentrate its efforts on the priorities mentioned in General Assembly resolution 32/130. However, the fact that due attention had been given to questions of flagrant violations of the rights of the indigenous inhabitants of South Africa, Zimbabwe and Namibia demonstrated that in general those priorities had been adhered to at the thirty-fifth session.

24. The Commission had had before it the report of the Ad Hoc Working Group of Experts contained in document E/CN.4/1311 in which that Group had confirmed the fact that systematic, flagrant and mass violations of human rights continued to be practised in South Africa. The South African authorities were physically eliminating opponents of the apartheid régime, as had been demonstrated by the recent execution of Solomon Mahlangu. The South African police spared neither women nor children, and carried out the same practices against the indigenous population in Namibia. His delegation shared the Working Group's conclusion that the granting of "independence" to Namibia by the Pretoria authorities was illegal. Only the immediate withdrawal of South Africa from Namibia and the transfer of power to the people's representatives, members of SWAPO, would bring genuine independence to the Namibian people.

/...

(Mr. Martynenko, Ukrainian SSR)

25. His delegation also shared the concern of the Working Group over the situation in Zimbabwe. Recently, the world had witnessed another act of aggression against the neighbouring African States when Rhodesian saboteurs had made an armed assault on the capital of the Republic of Zambia. A just settlement regarding the future of Zimbabwe could be reached only after full power was transferred to the people of Zimbabwe as represented by the Patriotic Front.
26. His delegation supported the conclusions and recommendations contained in the Ad Hoc Working Group's report in document E/CN.4/1311 (para. 631) and in the Commission's resolution 12 (XXXV). The racist régimes could not carry out their policies of aggression and mass violations of human rights without support from many NATO countries and their transnational corporations. His delegation supported resolution 9 (XXXV) adopted by the Commission on that question.
27. Turning to the question of violations of human rights in Chile, he said that during the five years it had been in power the military Junta had revealed its barbaric nature to the world. In spite of efforts by the Junta to disguise the nature of its régime, arbitrary acts, lawlessness and aggression continued to be practised in Chile. In its report (E/CN.4/1310) the Ad Hoc Working Group on the Situation of Human Rights in Chile had exposed the growing number of cases of intimidation and arrest for political reasons and the continuing practice of torture in Chile. It had further noted that torture was inflicted in order to break the will of the victims and also to force people to give false evidence against third parties. The report contained irrefutable evidence that the Junta had deprived the population of political, economic, social, cultural and trade union rights and had suppressed their right to freedom of thought and belief.
28. His delegation supported the Commission's resolution 11 (XXXV) on that question and expressed the hope that the Special Rapporteur on the Situation of Human Rights in Chile and the two experts appointed in their individual capacity to study the question of the fate of missing and disappeared persons would proceed in accordance with General Assembly resolution 33/175 and fully exercise their mandate. It could not, however, agree with the statement in the ninth preambular paragraph of the Commission's resolution (XXXV) that the situation of human rights in Chile had improved.
29. The Commission had stressed the fact that Israel's occupation of Arab territories was a fundamental violation of human rights. His delegation supported resolution 1 (XXXV) on that question and believed that the mass violations of human rights in that area could be halted only with the full withdrawal of Israeli forces from all Arab territories occupied in 1967 and the realization of the legitimate rights of the Arab people of Palestine, including the right to establish a sovereign State.
30. With regard to draft resolution I (XXXV) on the question of the human rights of all persons subjected to any form of detention or imprisonment, his delegation believed that the comments of Governments on the body of principles that was to be sent to them under paragraph 1 of the resolution should be transmitted first to the Commission and only then to the General Assembly. That procedure would be more closely in conformity with established United Nations practice. Draft

(Mr. Martynenko, Ukrainian SSR)

resolution II (XXXV) on the draft convention on torture and other cruel, inhuman or degrading treatment or punishment contained an unjustified proposal for a meeting of an open-ended working group for a period of one week prior to the Commission's thirty-sixth session. His delegation was convinced that the work could be done during the session itself by the sessional working group.

31. His delegation supported draft resolution III (XXXV) on further promotion and encouragement of human rights and fundamental freedoms and believed that, together with General Assembly resolution 32/130, it would create a strong foundation for United Nations activities, particularly those of the Commission, in that field. His delegation also supported the Commission's resolutions 2 (XXXV), 3 (XXXV), 4 (XXXV), 5 (XXXV), 8 (XXXV), 9 (XXXV) and several others adopted at the thirty-fifth session.

32. Although his delegation supported resolution 19 (XXXV) on the question of a convention on the rights of the child, it regretted that the Commission had not been able to complete its work on the draft convention submitted by the People's Republic of Poland. The adoption of such an international instrument during the International Year of the Child would be extremely appropriate and his delegation expressed the hope that the work on the draft convention would be completed in the very near future.

33. His delegation believed that effective exercise of human rights was possible only under conditions of international peace and security, détente, disarmament and elimination of the vestiges of colonialism, racism, apartheid, foreign domination and occupation. For that reason, he wished to repeat his appeal that the programme of work for the Commission should include adequate consideration of the question of the right of mankind to live in peace and security.

34. Mr. KEATING (Ireland) said that the Commission on Human Rights currently seemed more like a miniature version of the Security Council and the Economic and Social Council than like a functional commission of the latter. Its sessions were longer than any regular session of the Council and it now appeared that it would have to meet for seven weeks, a period which his delegation believed should be divided into a session and a resumed session, each lasting three or four weeks. It also appeared that the Commission's membership would have to be increased to 43, only 11 less than that of the Economic and Social Council, and it must establish several sessional and pre-sessional working groups. The growth in the Commission's work, in both volume and diversity, had not been accompanied by a proportionate increase in its resources. For example, despite the fact that there were currently several working groups functioning during the Commission's session, only one team of interpreters was available. There was no question, furthermore, that the Division of Human Rights had been overloaded with work. The Director had stressed that unless steps were taken to remedy the situation the Division would not be able to perform its tasks adequately and efficiently and might soon be unable to undertake new tasks. The recent entry into force of several major human rights instruments, notably the two Covenants and the Convention on the Elimination of Racial Discrimination, had greatly increased the Division's burden. It was also required to service the Committee on Racial Discrimination, the Human Rights Committee and the Council's Working Group on the Implementation of the

(Mr. Keating, Ireland)

International Covenant on Economic, Social and Cultural Rights. Although all delegations did not agree on all aspects of the Commission's and the Division's work, there was general agreement that the above-mentioned bodies required full and adequate assistance by the Division. The resources of the Division should be increased and the grading of its staff set at a level commensurate with its added responsibilities. His delegation therefore supported the Commission's proposals that the Division should become a Centre.

35. His delegation agreed with the Director that the Commission had adopted a pragmatic approach to the issues before it. However, unless progress was attempted it would not be achieved; the Commission's work should not be viewed complacently. There were inconsistencies in its approach to the questions of human rights violations brought before it. Action was taken on some situations but not on others, as had been evident again at the Commission's previous session.

36. With regard to the procedures for investigation of communications concerning violations of human rights, he noted that in accordance with Economic and Social Council resolution 728 F (XVIII), 1235 (XLII) and 1503 (XLVIII), cases were considered confidentially before a decision was taken on whether to apply the public procedure or the confidential resolution 1503 (XLVIII). In recent years there had been an increasing tendency to use the latter procedure. As long as a country showed some sign of readiness to co-operate with the Commission, the latter had been reluctant to use the public procedure even though the use of a confidential procedure might not have been agreed upon. A public procedure had been used during the current year and that possibility was always present. The Commission's investigative procedures were not yet clearly defined, and were evolving on a case-by-case basis. Document E/CN.4/1317 had provided information on the procedures for investigations of communications concerning violations of human rights and on points where the Commission on Human Rights and the Human Rights Committee overlapped in their functions. However, that extremely useful report had not dealt with the question of the overlapping of the procedures envisaged in resolutions 1501 (XLVII) and 1235 (XLII). His delegation hoped that the Secretariat would try to elaborate on that question in the up-dated report requested for the following year in the Commission's decision 4 (XXV). In any event, any State could propose action on a human rights situation not brought to light under the communications procedures or not adequately treated thereby. His delegation regarded that approach as a useful contribution to the over-all work of the Commission which might serve to encourage the progress of the procedure provided for in resolution 1503 (XLVIII).

37. Turning to draft resolution III, he noted the recommendation in paragraph 1 that the Commission should take into account the concepts contained in General Assembly resolution 32/130 in fulfilling its tasks. His delegation had abstained during the vote on that resolution because it considered that the concepts in question presented an unbalanced view of individual rights versus collective rights. At the current stage, however, it wished to acknowledge that the resolution had not impeded the work of the Commission. Although his delegation adhered to the opinions it had expressed at the time of the resolution's adoption, it acknowledged that it had seen evidence of the willingness of the sponsors to

(Mr. Keating, Ireland)

take account of differing views on United Nations activities in the human rights field, including those relating to investigation and implementation. His delegation was prepared to accept draft resolution III as a consensus draft and hoped that other delegations would do likewise.

38. Although his delegation had hoped for more progress, it was gratified that the Commission had begun its elaboration of a draft convention on torture and other cruel, inhuman or degrading treatment or punishment. It endorsed draft resolution II, which provided that a working group should meet for one week prior to the next session of the Commission in order to complete the work of drafting. Drawing attention in that connexion to paragraphs 22 and 34 of the report of the working group (E/CN.4/L.1470), he said that his delegation reserved the right to refer again to the question of whether the convention should apply only to torture or to other forms of cruel, inhuman or degrading treatment or punishment as well.

39. His delegation was also pleased that a start had been made on the elaboration of a draft convention on the rights of the child. The experience of the International Year of the Child, which had attracted attention and support all over the world, would be useful in that connexion.

40. Ireland's observer delegation had participated actively in the consideration by the Commission of the question of a draft declaration on the elimination of all forms of intolerance and of discrimination based on religion or belief. It was pleased that the Commission had adopted the first three articles of the draft without a dissenting vote and hoped that the Working Group would work constructively at the next session to submit further draft articles for adoption by the Commission.

41. His delegation would support draft decision 3 on the implementation of the programme for the Decade for Action to Combat Racism and Social Discrimination. It believed that the draft decision would be useful and constructive and that it could be adopted without a vote.

42. He wished to express his delegation's regret that the Commission had not been able to take decisions on all the matters that it had had before it. He referred in particular to the question of missing persons.

43. Mr. VALDERRAMA (Philippines) said that his delegation welcomed the fact that for the first time in its history the Commission on Human Rights had considered the concept of the right to development. Under its 1973 Constitution, his country was committed to a policy of ensuring the dignity, welfare and security of all its people - a policy of peace, equality, justice, freedom, co-operation and amity with all nations. In that context, it endorsed the Commission's appeal to all States to create conditions for the full realization of economic, social and cultural rights as an essential means of ensuring the real and meaningful enjoyment of civil and political rights, and fundamental freedoms.

44. There were, of course, other human rights battles to fight and win, the subjects of long-standing items on the agenda indicating a consistent pattern of

(Mr. Valderrama, Philippines)

gross violation of human rights - apartheid in South Africa and its extension to Namibia, bantustanization; the illegal régimes in Southern Rhodesia and Namibia, the systematic repression and brutalization of the black populations in southern Africa by the illegal white racist minority régimes, and the displacement of the inhabitants of the occupied Arab territories, including Palestine, from their homes and property. The international community could not afford to allow the situation to deteriorate further. The peoples of South Africa, Southern Rhodesia, Namibia and Palestine were entitled to a life of dignity and to the exercise of their right to self-determination, territorial integrity, independence and sovereignty; and the United Nations and the international community must support their legitimate aspirations. His country was committed to the achievement of those goals and was giving moral and financial support to the cause of the peoples of southern Africa and Palestine. It therefore supported the removal of the mandates of the Ad Hoc Working Group of Experts on southern Africa and the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories.

45. His delegation supported the proposal to increase the membership of the Commission consistent with the enlarged membership of the United Nations and in accordance with the principle of equitable geographical distribution. There was undoubtedly a need for co-ordination, co-operation and communication in the field of human rights within the United Nations system. He also endorsed resolution 23 (XXXV) on the development of public information activities in the field of human rights and suggested that co-ordination should be maintained with the Committee to Review United Nations Public Information Policies and Activities.

46. The question of human rights was a complex and delicate one and he recognized the need to seek alternative approaches and ways and means within the United Nations system for improving the effective enjoyment of human rights and fundamental freedoms. Any approach must be circumspect, since there was no conventional formula that would apply to all societies at all times. His country had revived the tanodbayan, its own version of the ombudsman, a distinguished and respected individual to whom persons could take their grievances with the assurance of a fair hearing and judgement. His delegation would therefore give consideration to the guidelines for the structure and functioning of national institutions suggested by the Seminar on National and Local Institutions for the Promotion and Protection of Human Rights, referred to in resolution 24 (XXXV).

47. His delegation maintained its support for the relevant General Assembly resolutions on missing persons. His country was opposed to torture and to cruel and degrading punishment. Abuses or alleged abuses by agents of the law, both civilian and military, were investigated and if the allegations were substantiated, the persons responsible were duly prosecuted. His delegation endorsed the Commission's decision to give high priority to the question at its next session. His country accorded the highest priority to the question of the rights of the child and had declared a national Decade of the Child. It supported the Polish initiative in preparing a draft Convention on the Rights of the Child and looked forward to the revised draft convention which would take into account the views and suggestions that had been put forward.

(Mr. Valderrama, Philippines)

48. His delegation supported the proposal to increase the staff of the Division of Human Rights because of its increased workload, but stressed that in its recruitment policy the Secretariat should at all times be guided by the criteria of competence, integrity, efficiency and objectivity.

49. It was important to remember that, as the President of his country had stated at the thirty-third session of the General Assembly: "We inhabit a plural universe and must learn to accept the diversity of customs, values and specific sets of economic, and political circumstances. To compel other nations to conform to another country's values is itself an unpardonable violation of human rights."

50. Mr. RICHARD (United Kingdom), referring to the report of the Commission on Human Rights on its thirty-fifth session, said that his delegation particularly welcomed the dynamic development of the confidential procedure provided for under Council resolution 1503 (XLVIII); the decision to take public action in the case of the atrocious human rights situation in Equatorial Guinea, about which less had been made known internationally than the shocking facts justified; the progress made in drafting a convention against torture and - after 17 years - a declaration against religious intolerance.

51. On the other hand, he regretted that the Commission had failed to take any action on the human rights situation in Democratic Kampuchea, despite overwhelming evidence objectively presented and analysed by the Rapporteur of the Sub-Commission on Prevention of Discrimination and Protection of Minorities; on refugees from South-East Asia, especially Viet Nam; and on the problem of missing and disappeared persons - despite the humanitarian concern unanimously expressed by the General Assembly at its thirty-third session.

52. Although draft resolution III on further promotion and encouragement of human rights and fundamental freedoms, submitted in response to General Assembly resolution 32/130, failed to recommend a number of proposals to which his delegation attached importance, such as those relating to a High Commissioner for Human Rights and to more frequent meetings of the Commission, it contained a number of elements which pointed in the right direction, and the degree of unanimity possible on those measures to improve the United Nations ability to deal with human rights problems was heartening. On the whole, therefore, the Commission's session had been modestly encouraging. The Commission should be careful, however, not to over-extend itself by encroaching on areas which were often peripheral to its terms of reference and were really within the purview of other United Nations bodies.

53. In recent years concern about the condition of human rights throughout the world had been heightened by developments in various countries and continents. The Conference on European Security and Co-operation had placed human rights firmly on the agenda of relations between the States of Eastern and Western Europe. There had been particularly shocking violations of human rights on a scale not experienced since the end of the Second World War in a number of countries, including Uganda and Kampuchea. Apartheid in South Africa was a denial of elementary human rights; and economic deprivation and the disease and malnutrition which so often accompanied it were an equally intolerable abuse of human dignity. All those conditions had increased the attention given to human rights and

(Mr. Richard, United Kingdom)

obliged States, sometimes despite themselves, to take them into account in formulating their foreign policies.

54. The speed of development had created the impression that for some countries concern for human rights was a new phenomenon. For example, the Soviet Union and other East European countries professed to see it as simply an opportunist twist in the ideological struggle, thus ignoring the fact that freedom of the individual and his relationship to the State had been issues fundamental to the development of political philosophy over hundreds of years in many countries, not least the United Kingdom. The fact was that as East and West moved further away from the open hostility of the cold war towards the more civilized relationship which détente was intended to promote, those issues must increasingly come to the fore. The debate about the nature of human rights and how they could best be safeguarded and extended was nothing new, for human rights were not, as so often depicted, an issue between countries but an issue within countries. For example, the belief that certain rights were inalienable, guaranteeing the integrity of the person and the right to life itself, which was central to humanitarian and democratic values today, was the same belief on which his own country's Bill of Rights in 1689, the United States Declaration of Independence in 1776 and the French Declaration of the Rights of Man in 1789 had been based. Those constitutional landmarks had in turn drawn their intellectual inspiration from a great body of seventeenth- and eighteenth-century thinkers and all led to the further proposition - also crucial to democratic society today - that man's inalienable rights could be guaranteed only in a society in which political and civil liberties flourished. Throughout the West that proposition had found its practical expression in the gradual evolution of democratic systems of government and attention to economic and social rights.

55. There was nothing novel or opportunist about the priority which his own country and other members of the Council of Europe attached to human rights. What was relatively new was the growing recognition throughout the world that violations of human rights were a legitimate subject of international concern and that their enforcement could no longer be left to national Governments alone. The basic premise reflected in fundamental and internationally agreed documents such as the Charter, the Universal Declaration of Human Rights, the International Covenants on Human Rights and the European Convention on Human Rights was that human rights were founded on values which were the property of all men and which transcended national frontiers; that those rights existed and it was the function of the international community to safeguard them.

56. The cause of human rights involved a commitment to values and a readiness to identify and live up to them at home before a country tried to carry its conviction abroad. His own country had achieved considerable progress in trying to live up to those values and he believed that its basic respect for the rule of law, individual liberty and democratic debate had had a world-wide influence. It welcomed the resolution on regional commissions on human rights, introduced by Nigeria at the General Assembly, because regional commissions, if properly constituted and with the right kind of powers, could greatly assist the work of the United Nations. There was much to be said for complementing the global approach with one which made allowances for different traditions and cultures, and there seemed to be a far

(Mr. Richard, United Kingdom)

greater chance of enforcing human rights effectively if the countries in question shared a reserve of common values. That judgement was based primarily on his country's experience, as a member of the Council of Europe, of the growing effectiveness of the European Convention on Human Rights and Fundamental Freedoms and the instruments which enforced it: the European Commission on Human Rights and the European Court of Human Rights. The European Convention owed much to the Universal Declaration of Human Rights but was unique in having effective enforcement machinery.

57. His country had accepted the human rights machinery provided for under the European Convention as an integral part of the empirical process by which its own individual liberties had been expanded and reinforced over the centuries. Applications under that machinery had contributed to the establishment in his country of a new system of appeal for immigrants and new regulations on the rights of prisoners to have access to the courts, and had dealt with the treatment of detainees in Northern Ireland. A recent decision announced in Strasbourg would have profound implications for newspaper reporting of court cases.

58. In addition to the regional approach, his country pursued a universal international approach to human rights through the United Nations which had already achieved a great deal. Human rights were an integral part of the Charter; the Universal Declaration of Human Rights was generally regarded as a standard text, and the two International Covenants on Human Rights had given detailed expression to the Declaration's concept of man as a political, social and economic being. Enough States had now ratified the Covenants to bring them into force, and the Human Rights Committee set up to supervise the implementation of the International Covenant on Civil and Political Rights was beginning to function well. Abuse of human rights was a global phenomenon and must be dealt with on a global basis. The United Nations alone provided a vehicle for that kind of approach. Progress would inevitably be slow and painful, and the attainment of the ultimate goal of formally binding commitments by Member States in respect of universally agreed and enforceable human rights criteria would take time. But the world must keep on trying.

59. In his delegation's view, the complex of human rights was morally indivisible, and the implementation of all of them should be pursued with equal rigour and determination. However, some of the economic and social rights were longer-term goals and while the rights to work, to have enough to eat, to an adequate standard of living and to social services were fundamental, they could have little meaning or purpose in societies where life itself was cheap and the rule of law was imperfect or arbitrary or turned a blind eye to torture. It was no justification for apartheid that in South Africa the black population enjoyed a higher standard of living than elsewhere in Africa; nor was it any justification for denying the right of individuals to monitor the Helsinki progress that their doing so could prejudice the stability of the political and economic systems under which they lived. The demands of economic development did not justify setting aside basic political freedoms and civil rights. To deny that proposition could only lead, in strict logic, to justifying dictatorship on the long since discredited ground that it was economically more efficient than democracy.

(Mr. Richard, United Kingdom)

60. There was a morality which existed within most people which was often not fully tapped and which had not yet been translated into international institutions. It had been said that the crucial omission in Marx's critique of capitalism was any formulation of a morality for a Marxist society. The ultimate flaw in Marxism was its avowed utilitarianism. When leaders or governments ignored morality and ethics - which were what human rights were about - they did so at their own ultimate peril. No State could operate in the world without projecting its own ethical values and its own moral principles or lack of them. What he had been saying represented the deeply cherished, if often unexpressed, views of the people and Government of his country.

61. Mr. PU Chao-min (China) said that the Commission on Human Rights, at its thirty-fifth session, had adopted resolutions on the right of national self-determination of human rights in Israeli-occupied territories and in southern Africa, the elimination of racial discrimination, the punishment of the crime of apartheid, and the achievement of various rights in the developing countries. Discussions had been useful and some of the relevant resolutions were basically acceptable to his delegation.

62. With regard to questions of human rights in southern Africa, he observed that the reactionary, racist régimes of South Africa and Southern Rhodesia were still pursuing criminal policies of racial discrimination and apartheid. The people of southern Africa were still suffering under the cruel oppression of racism and colonialism, and that situation could no longer be allowed to continue. Owing to the heavy blows they had suffered from the armed struggles waged by the peoples of Zimbabwe and Namibia, the racist régimes were at the end of their tether. However, supported by imperialism, they were putting up stubborn resistance, continuing to play political tricks, such as the so-called "internal settlement", and carrying out repeated acts of aggression against neighbouring African States in an attempt to preserve their reactionary rule. At the same time, outside forces, namely the super-powers, were trying actively to interfere in the liberation struggles of southern Africa, for self-seeking reasons.

63. His delegation had always held the view that all countries that upheld justice should give all-out support to the liberation struggles of the peoples of Zimbabwe, Namibia and Azania; Zimbabwe and Namibia must achieve genuine national independence on the basis of territorial integrity and unity, free from any outside interference. Only in that way could the evils of racism and apartheid be eradicated and the people of southern Africa enjoy their basic rights. The United Nations should go along with the tide of history and make its own contribution to the cause of ending colonial and racist rule in southern Africa, in accordance with the pressing desire and just demands of the African people.

64. The question of human rights in Israeli-occupied territories had been considered in the past few years by the United Nations General Assembly, the Security Council, the Economic and Social Council and the Commission on Human Rights, and resolutions had been adopted. However, Israeli zionism had turned a deaf ear to them and had continued to pursue its policies of aggression and expansion in the occupied territories, persecuting the Arab and Palestinian peoples, and committing many criminal acts. His delegation expressed deep

(Mr. Pu Chao-min China)

sympathy with the Arab and Palestinian peoples who were suffering in Israeli-occupied territories, and resolutely supported the just position of the Arab countries in strongly condemning Israeli zionism. Over a long period of time, the aggression and expansion of Israeli zionism and its brutal acts in the occupied territories had caused a great national catastrophe for the Palestinian and Arab peoples, millions of whom had been forced to leave their homes and been stripped of their most basic rights. Arab inhabitants in the occupied territories were frequently subjected to illegal arrest, torture and savage, bloody suppression. Many of the precious Moslem relics had been wrecked or plundered and there was gross interference with religious freedom. The so-called question of human rights in the Israeli-occupied territories was, in essence, the question of the Israeli zionists' aggression against and repression of the Palestinian and Arab peoples. However, the military occupation and brutal persecution had aroused strong resistance and heroic struggle on the part of the Arab and Palestinian peoples in the occupied territories, who were dealing increasingly heavy blows to the Israeli aggressors.

65. In the opinion of his delegation, the question of the Israeli-occupied territories was an inseparable part of the Middle East question. The extreme hardships suffered by the Arab and Palestinian peoples in the occupied territories were brought about by the Israeli policy of aggression and expansion, and by super-Power rivalry over the area. To solve the so-called question of human rights, therefore, it was first necessary to do away with super-Power interference and sabotage, restore to the Palestinian people their national rights, and compel the Israeli aggressors to withdraw from all the occupied Arab lands. Only then could the Palestinian people enjoy their own basic rights.

66. The people of the whole world were much concerned with and supported the struggle of the peoples of Palestine and of the Arab States. The Chinese Government and people, as always, would resolutely support the just struggles of the Palestinian and Arab peoples against imperialism, hegemonism, and Israeli zionism, until final victory.

67. He drew attention to the content and wording of paragraph 153 of the report of the thirty-fifth session of the Commission on Human Rights (E/1979/36). His delegation was of the opinion that the Commission should have condemned Viet Nam for its aggression and atrocities against Democratic Kampuchea and for seriously impairing the right to life of the people of that country. It was regrettable that the Commission not only had failed to do so but had, on the contrary, unjustifiably included in its report the slanderous remarks of a certain speaker who had chosen to use the Chinese-Vietnamese border conflicts as an excuse to vilify China, by reversing right and wrong. That was absolutely unacceptable.

68. Mr. HASSAN (Pakistan) said that although the report of the Commission had been able to indicate in detail areas where substantial progress had been made, mass violations of the human rights of the peoples of the occupied Arab territories, including Palestine, and of southern Africa were still occurring. The Commission had discussed the continuing suppression of the Palestinian people by the Israeli authorities as reported in the international press. Repeated reports of torture,

(Mr. Hassan, Pakistan)

arbitrary arrests and detention and destruction of houses had led the Commission, on his delegation's instigation, to send a telegram to the Israeli authorities expressing, inter alia, the Commission's grave concern at the Israeli policies of repression and collective punishment practised against the Palestinian people.

69. Referring to the report of the Ad Hoc Working Group of Experts in document E/CN.4/1311, he said that his delegation had consistently condemned the policies and practices of apartheid, which were a threat to international peace as well as a challenge to humanity. His delegation wished to reaffirm its solidarity with the peoples of southern Africa in their struggle to recover their human rights and fundamental freedoms. As in the past, it would give all possible moral and material support to the realization of the aims of that just struggle.

70. His delegation fully endorsed the findings contained in the reports on the historical and current development of the right to self-determination (E/CN.4/Sub.2/404) and on the implementation of the United Nations resolutions relating to the right of peoples under colonial and alien domination to self-determination (E/CN.4/Sub.2/405).

71. The consideration of the concept of the right to development as a human right with particular attention to the obstacles encountered by developing countries was timely because without meaningful progress in achieving economic development, the countries of the third world would be greatly hampered in ensuring economic, social and cultural rights for their citizens. Much work needed to be done to identify the factors that stood in the way of the right to development; speedy and efficacious solutions should be devised so that developing countries could realize that important right.

72. The Commission had made some progress towards the promotion and protection of human rights everywhere. Nevertheless, there were many areas where human rights continued to be grossly violated, and his delegation felt that the institutional machinery of the Commission should be strengthened and amplified to meet the growing demands placed on it. The question of the observance of human rights must be viewed in an over-all perspective. His country would exert every effort to combat violations of human rights and to ensure for its people the full enjoyment of political, economic, social and cultural rights.

73. Mrs. MUTUKWA (Zambia) said that her delegation shared the view of many others that the most significant and historic development at the thirty-fifth session of the Commission on Human Rights was consideration of the new concept of the right to development as the responsibility and duty of all members of the international community. The right to development lay at the core of human rights issues. The only viable basis for its effective realization was the implementation of the new international economic order, which was based on the principles of genuine equality and equity that had inspired the authors of the Declaration of Human Rights. The industrialized countries had a crucial role to play in promoting the accelerated development of developing countries and creating an external environment which would support their development efforts. The industrialized countries still had ample opportunity to demonstrate their good faith and

(Mrs. Mutukwa, Zambia)

commitment within the framework of negotiations relating to the new international economic order and the new international development strategy for the 1980s.

74. The discussion in the Commission on the link between economic conditions and the enjoyment of human rights needed to be further expanded and developed, and her delegation therefore attached great importance to resolution 4 (XXXV). The call to all States to create conditions for the full realization of economic, social and cultural rights as an essential means of ensuring the real and meaningful enjoyment of civil and political rights and fundamental freedoms was a step towards a better world.

75. Her Government was irrevocably committed to the promotion of human rights for all, and condemned violations wherever they occurred. It therefore supported the Commission's resolutions and recommendations regarding violations of human rights in Chile and the occupied Arab territories, including Palestine. Early and effective implementation of resolution 1 (XXXV) would greatly contribute to fulfilling the demands of the numerous General Assembly and Security Council resolutions on the occupied Arab territories.

76. With regard to violations of human rights in southern Africa, studied by the Ad Hoc Working Group of Experts, her delegation reaffirmed its indignation at the continued and systematic mass violation of human rights perpetrated by the racist régimes in South Africa, Zimbabwe and Namibia. It was disappointed and disillusioned at the international community's inability to act effectively in support of the just struggle of millions of people for fundamental human rights, freedom, justice and human dignity. The South African régime had flagrantly refused to heed the appeals of the international community to abandon its racist policy of apartheid, and the Rapporteur of the Special Committee against Apartheid had given a disturbing picture of the brutish and criminal nature of the apartheid régime. The report of the Ad Hoc Working Group of Experts also told of the seriously deteriorating working conditions of the black people and the continued refusal to recognize their trade union rights. Recently the international community had mourned the execution of the freedom fighter Solomon Mahlangu by the racist régime in Pretoria, in defiance of world-wide pleas for clemency. Most States recognized the serious implications of apartheid, which was a crime against humanity and a threat to international peace and security, but the United Nations had failed to discharge its duties under the Charter in that regard. The fact that economic, financial, military and other forms of assistance to the racist régime of South Africa seriously hampered the enjoyment of human rights had been clearly demonstrated. Yet collaboration with the racist régime by Western countries in the economic, military, nuclear and other fields continued to increase. It was tragic that those Western States, the very progenitors of the Declaration of Human Rights, had not been loyal to it, and had allowed narrow social and economic interest to block the adoption of realistic policies and decisive measures. Her delegation therefore welcomed the long overdue recommendation for a study of the legitimacy of the South African Government in view of its apartheid policy. It strongly supported that and the other recommendations and resolutions on the issues of violation of human rights in southern Africa.

(Mrs. Mutukwa, Zambia)

77. With regard to the need to strengthen the role of the United Nations in the field of human rights by finding ways and means of improving the effective enjoyment of those rights, her delegation considered that the complete answer lay beyond the programmes and methods of work of the Commission and needed further examination. Nevertheless, it supported the enlargement of the Commission to 43 members, subject to equitable geographical representation.

78. In the view of her delegation, the Commission's recommendations on torture and other cruel and inhuman treatment, national institutions for the promotion and protection of human rights, the convention on the rights of the child and the right to self-determination deserved the support of all members of the Committee.

The meeting rose at 1.20 p.m.